

The letter from the D.G., ACB may be seen at pages 131-133 c.f. It is submitted that on the allegation of corruption leveled against Sri T. Vasudeva Rao, Junior Assistant, Small Savings section, Collector's office, West Godavari district, surprise check was conducted and the case was entrusted to the Special Judge for SPE & ACB Cases, Vijayawada vide G.O.Ms.No.1881, dt.29.9.2003. While the matter is thus pending, the individual retired from service on attaining the age of superannuation on 31.10.2002.

The D.G.ACB has stated that the Special Judge has pronounced his judgment on 18.3.2008 on the following aspects:

(i) Sri T. Vasudeva Rao, was convicted under section 248 (C) Cr P.C. for the offence punishable under Section 13 (1) (d) read with Section 13 (2) of P.C. Act.

(ii) he was sentenced to undergo simple imprisonment for a period of one year and to pay Rs.1,000/- as fine in default to suffer simple imprisonment for 3 months;

(iii) he was acquitted under Section 248 (1) Cr P.C. for the offence punishable to under section 13 (1) (C) read with Section 13 (2) of P.C.Act.

The DG ACB has stated that judgment copy will be furnished in due course and requested to take action as per Revised Pension Rules, 1980 on the ground of conduct which has led him for conviction on a criminal charge under Rule 25 of APCS (CCA) Rules, 1991.

In this connection it is submitted that, it is a fact that the Special Judge for SPE & ACB has found fault with him and ordered for conviction. Since he retired from service, action has to be taken under Rule 9 of A.P. Revised Pension Rules. According to which the Government reserve the right of withholding a pension or gratuity or both either in full or in part or withholding a pension in full or in part whether permanently or for a specific period and for ordering recovery of gratuity of the whole or part, if any departmental or judicial proceedings the pensioner is found guilty of grave misconduct. However, a show cause notice has to be issued specifying the action proposed to be taken under this rule and the person will be required to submit his reply to the show cause notice within a specific period.

In view of the above, it is for consideration whether Rule 9 of A.P. Revised Pension Rules, 1980 may be inflicted on Sri T. Vasudeva Rao, Junior Assistant (retired) on the ground of conduct which has led him for conviction on a criminal charge and if so to indicate the provisional punishment so as to issue a show cause notice. For orders.

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In reply to paras 1 to 5 no remarks as they are formal in nature.

In reply to para-6 (a) of the O.A., it is submitted that on the allegation of corruption leveled against Sri T. Vasudeva Rao, Junior Assistant, Small Savings section, Collector's office, West Godavari district, surprise check was conducted and he has was caught red handed on 27.9.2002 on the allegation of collecting bribes from the small savings agents at the palacole head post office while issuing incentive D.Ds. The case was entrusted to the Special Judge for SPE & ACB Cases, Vijayawada for enquiry vide G.O.Ms.No.1881, dt.29.9.2003. While the matter is thus pending, the individual retired from service on attaining the age of superannuation on 31.10.2002 pending disciplinary action.

In reply to the averments in para 6 (b) it is submitted that the Special Judge for SPE & ACB cases, Vijayawada pronounced judgment on 18.3.2008 on the following aspects:

- (i) Sri T. Vasudeva Rao, was convicted under section 248 (C) Cr P.C. for the offence punishable under Section 13 (1) (d) read with Section 13 (2) of P.C. Act.
- (ii) he was sentenced to undergo simple imprisonment for a period of one year and to pay Rs.1,000/- as fine in default to suffer simple imprisonment for 3 months;
- (iii) he was acquitted under Section 248 (1) Cr P.C. for the offence punishable to under section 13 (1) (C) read with Section 13 (2) of P.C.Act.

Government have examined the judgment. Had he been in service, the course of action on proved mis-appropriation cases is dismissal from service in terms of APCS (CCA) Rules, 1991. Since the applicant in this O.A. has retired from service pending disciplinary action, it has been provisionally decided to take action

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under Rule 9 of A.P. Revised Pension Rules, 1980 according to which the Government reserve the right of withholding a pension or gratuity or both either in full or in part or withholding a pension in full or in part whether permanently or for a specific period and for ordering recovery of gratuity of the whole or part, if any departmental or judicial proceedings the pensioner is found guilty of grave misconduct. A show cause notice has been issued informing the provisional decision of the Government as he was found guilty and also convicted from the charges vide Memo.No.60741/Vig.VII/2002-6, dt.19.6.2008 giving opportunity for submission of defence. His reply is awaited. After receipt of explanation, the same will be examined for taking a decision.

In reply to the averments in para 6 (c) (d) of the O.A., it is submitted that the applicant has raised a point that he has challenged the judgment of SPE & ACB cases in Criminal Appeal No.421/2008 before the High Court. It is a fact that the Hon'ble High Court in its interim order dated 2.4.2008 has suspended the sentence of imprisonment. But the other point of conviction has not been touched upon by the High Court as the offence punishable under Section 7 and 13 (1) (d) read with 13 (2) of P.C.Act 1988. The point raised by the applicant in this O.A. has no merit for consideration. It is also submitted that as per clause (1) of Rule 25 of APCS (CCA) Rules, 1991, a penalty can be imposed on the ground of conduct leading to conviction on a criminal charge without having to follow the procedure laid down under Rule 20, 21, and 22 thereof. Such action should be taken without waiting for filing of appeal or outcome of appeal, if any, filed and suspension of sentence is no bar to take further action. In this case, the conduct leading to the conviction on the criminal charge constitutes on the part of the applicant in this O.A. The penalty that should be imposed in

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a case of proven bribery and corruption as per the first proviso of Rule 9 of the APCS (CCA) Rules, 1991 is dismissal or removal from

service. G.O.Ms.No.2, GA (Ser.C) Deptt dt.4.1.1999 stipulates dismissal as the penalty in proven case of misappropriation. Further it shall not be necessary to consult APPSC for taking any such action as per orders issued in G.O.Ms.No.240, GAD, dt.14.8.2003. The misconduct thus established against Sri T. Vasudeva Rao, the applicant in this O.A. by his conviction on a criminal charge is grave and calls for imposition of major penalty under Rule 9 of AP Revised Pension Rules 1980. It is not relevant to mention that the Government have power to withhold pensionary benefits in proven cases of corruption as laid down in Revised Pension rules.

It is submitted that the O.A. is premature since the applicant is challenging the validity of Rule 25 of APCS (CCA) Rules, 1991 and on the ground that the criminal appeal is pending before the High Court. In view of the averments made above, the OA is liable to be dismissed.

M.RAMAI AH  
DEPUTY SECRETARY TO GOVERNMENT

//FORWARDED BY ORDER//

SECTION OFFICER

GOVERNMENT OF ANDHRA PRADESH  
REVENUE(VIG.VII)DEPARTMENT

Memo No.60741/Vig.VII(2)/2001-7

dt.01-07-

2008

Sub:- SUITS - APAT - OA No.3776/2008 filed by Sri  
T.Vasudeva Rao, Junior Assistant(Retd),  
Collectorate, West Godavari Dist. - Parawise  
remarks - Request for approval - Reg.

Ref:- G.P for Rev(S), APAT Lr.No.OA  
No.3776/2008/VRC/APAT, dt.14-5-2008.

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The attention of Government Pleader for Revenue(Ser)  
APAT, Hyderabad is invited to the reference cited and to furnish  
herewith parawise remarks on behalf of respondents in OA  
No.3776/2008. He is requested to prepare convincing draft  
counter affidavit and furnish to Government for taking further  
action.

M.RAMAI AH  
DEPUTY SECRETARY TO

GOVERNMENT

To

The Government Pleader for Revenue(ser)  
APAT, Hyderabad.

//FORWARDED BY ORDER//

SECTION OFFICER

ON: Since, the parawise remarks are approved, the same may sent to GP for Rev(Ser) for convincing of counter affidavit. Subject to orders, draft Memo is placed above for approval.

GOVERNMENT OF ANDHRA PRADESH  
REVENUE(VIG.VII)DEPARTMENT

Memo No.60741/Vig.VII(2)/2002-6,

Dt.19-6-2008

Sub:- Jr.Assts - West Godavari Dist. - Allegation of corruption against Sri T.Vasudeva Rao, Junior Assistant, Small Savings Section, Dist. Collectorate, West Godavari dist. (Retired) - Trapped by ACB on 27-9-2002 - Convicted - Withholding of entire pension and gratuity and other pensionary benefits permanently - Show Cause Notice - Reg.

Ref:- 1) Judgement dated 18-3-2008 in CC No.2 of 2004 of  
Prl.Spl.Judge for SPE & ACB cases, Vijayawada.  
2) DG, ACB Lr.No.102/RCT-WWL/2003,  
dt.27-3-08.

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Sri T.Vasudeva Rao while working as Junior Assistant, Small Savings Section, Dist. Collectorate, West Godavari dist was caught redhanded during the surprise check of ACB officials on 27-9-2002 on the allegation of collecting bribes of Rs.20,490/- from the Small Savings agents at the Palacole Head Post Office on 27-9-2002 while issuing incentive D.Ds. The case was entrusted to the Spl.Judge for ACB cases for enquiry.

2. In the reference 1<sup>st</sup> cited, the Special Judge for SPE & ACB cases, Vijayawada pronounced judgment on 18-3-2008 in CC No.2 of 2004 finding the accused officer guilty and convicted him on the charges. In the meanwhile he was permitted to retire from service on attaining the age of Superannuation on 31-10-2002.

3. Government have examined the matter carefully and has been provisionally decided to impose the punishment under Rule 8 & 9 of AP Revised Pension Rules by withholding of entire pension and gratuity on Sri T.Vasudeva Rao, Junior Assistant(retired), Small Savings Section, Collectorate, West Godavari dist for the conduct which led to his conviction in CC No.2/2004,dt 18-3-08

4. Sri T.Vasudeva Rao, Junior Assistant, Small Savings Section, Dist. Collectorate, West Godavari dist is therefore directed to show cause as to why the provisional decision of imposing punishment as indicated at para 3 above should not be imposed against him as he was convicted in CC No.2/2004 dated 18-3-08 of the Special Judge for SPE & ACB cases, Vijayawada. He is also directed to submit his explanation within (15) days from the date of receipt of this memo failing which it will be construed that he has no representation to submit and further action will be taken based on the material available with the Government.

G.SUDHIR

PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri T.Vasudeva Rao, Junior Assistant(Retired), Small Savings Section,  
Dist. Collectorate, West Godavari dist. **through** Dist. Collector,  
West Godavari

The Collector, West Godavari District. (He is requested to serve the Memo and obtain dated signature of the individual and submit the same to the Government for taking further action.)

The Special Chief Secretary & Chief Commissioner of Land Administration, Hyderabad.

Copy to

The Director General, Anti Corruption Bureau, Hyderabad.

//FORWARDED BY ORDER//

SECTION OFFICER

IN THE HON'BLE ANDHRA PRADESH ADMINISTRATIVE TRIBUNAL  
AT HYDERABAD

IN OA No.3776/2008

Between:

Sri T.Vasudeva Rao,  
S/o Narasimha Rao  
Junior Assistant(Retired),  
Office of Spl.Tahasildar, NSS  
Collectorate, Eluru, West Godavari Dist. .... Applicant

And

The Government of Andhra Pradesh rep. by its  
Principal Secretary to Government,  
Revenue Department, Secretariat,  
Hyderabad. .... Respondent

COUNTER AFFIDAVIT FILED BY THE RESPONDENT

I, M.Ramaiah, S/o Brahmaiah aged about 55 years  
residing in Hyderabad do hereby solemnly and sincerely affirm  
and state on oath as follows:-

It is submitted that, I am working as Deputy Secretary to  
Government, Revenue(Vigilance-VII) Department, A.P  
Secretariat, Hyderabad herein and I am well acquainted with  
the facts of the case. I am filing this Affidavit on behalf of  
Respondent as I am authorized to do so.



1) In reply to the averment in para-6 (a) of the O.A., it is submitted that on the allegation of corruption leveled against Sri T. Vasudeva Rao, Junior Assistant, Small Savings section, Collector's office, West Godavari district, surprise check was conducted and he has was caught red handed on 27.9.2002 on the allegation of collecting bribes from the small savings agents at Palacole head post office while issuing incentive D.Ds. The case was entrusted to the Special Judge for SPE & ACB Cases, Vijayawada for enquiry vide G.O.Ms.No.1881, dt.29.9.2003. While the matter is thus pending, the individual retired from service on attaining the age of superannuation on 31.10.2002 pending disciplinary action.

Attestor

Deponent

- 2 -

In reply to the averments in para 6 (b) of the O.A., it is submitted that the Special Judge for SPE & ACB cases, Vijayawada pronounced judgment on 18.3.2008 as below

- (ii) Sri T. Vasudeva Rao, was convicted under section 248 (C) Cr P.C. for the offence punishable under Section 13 (1) (d) read with Section 13 (2) of P.C. Act.
- (ii) he was sentenced to undergo simple imprisonment for a period of one year and to pay Rs.1,000/- as fine in default to suffer simple imprisonment for 3 months;
- (iii) he was acquitted under Section 248 (1) Cr P.C. for the offence punishable to under section 13 (1) (C) read with Section 13 (2) of P.C.Act.

3) It is submitted that the Government have examined the judgment. Had he been in service, the course of action on proved mis-appropriation cases is dismissal from service in terms of APCS (CCA) Rules, 1991. Since the applicant in this O.A. has retired from service pending disciplinary action, it has been provisionally decided to take action under Rule 9 of A.P. Revised Pension Rules,1980 according to which the Government reserve the right of withholding a pension or gratuity or both either in full or in part or withholding a pension in full or in part whether permanently or for a specific period

and for ordering recovery of gratuity of the whole or part, if any departmental or judicial proceedings the pensioner is found guilty of grave misconduct. A show cause notice has been issued informing the provisional decision of the Government as he was found guilty and also convicted for the charges vide Memo.No.60741/Vig.VII/2002-6, dt.19.6.2008 giving opportunity for submission of defence. His reply is awaited. After receipt of explanation, appropriate orders will be passed in accordance with Rules.

Attestor

Deponent

- 3 -

In reply to the averments in para 6 (c) (d) of the O.A., it is submitted that the applicant has raised a point that he has challenged the judgment of SPE & ACB cases in Criminal Appeal No.421/2008 before the High Court. It is a fact that the Hon'ble High Court in its interim order dated 2.4.2008 has suspended the sentence of imprisonment. But the other point of conviction has not been touched upon by the High Court as the offence punishable under Section 7 and 13 (1) (d) read with 13 (2) of P.C.Act 1988. The point raised by the applicant in this O.A. has no merit for consideration. It is also submitted that as per clause (1) of Rule 25 of APCS (CCA) Rules, 1991, a penalty can be imposed on the ground of conduct leading to conviction on a criminal charge without having to follow the procedure laid down under Rule 20, 21, and 22 thereof. Such action should be taken without waiting for filing of appeal or outcome of appeal, if any, filed and suspension of sentence is no bar to take further action. In this case, the conduct leading to the conviction on the criminal charge is relevant. The penalty that should be imposed in a case of proven bribery and corruption as per the first proviso of Rule 9 of the APCS (CCA) Rules, 1991 is dismissal or removal from service. G.O.Ms.No.2, GA (Ser.C) Deptt dt.4.1.1999 stipulates dismissal as the penalty in proven case of misappropriation. Further it shall not be necessary to consult APPSC

for taking any such action as per orders issued in G.O.Ms.No.240, GAD, dt.14.8.2003. The misconduct thus established against Sri T. Vasudeva Rao, the applicant in this O.A. by his conviction on a criminal charge is grave and calls for imposition of major penalty under Rule 9 of AP Revised Pension Rules 1980. It is respectfully

Attestor

Deponent

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submitted that powers are vested in the Government to withhold pensionary benefits in proven cases of corruption under the Revised Pension Rules. A decision will be taken as per provisions of Law and the material on record.

In view of the facts set-out above, it is humbly prayed that the Hon'ble APAT may be pleased to dismiss the OA with costs.

Solemnly and sincerely affirmed  
    <sup>th</sup>day of February,2008 and  
    signed his name in my presence.

DEPONENT

BEFORE ME

4<sup>th</sup> page corrections

ATTESTOR

Please see the draft counter received from Govt. Pleader for Rev(s), APAT at pages                      and as such 6 sets of fair counter has to be send to GP for Rev(S) for filing the same before the court.

The fair counter has been prepared for attestation so as to enable to send the same to the APAT for filing before the court. A draft Memo is placed below for approval.

GOVERNMENT OF ANDHRA PRADESH  
REVENUE(VIG.VII) DEPARTMENT

Memo. No.60741/VIG.VII(2)/2002-8.  
Dt:10.07.2008

Sub:- Suits - APAT - 23766/2008 filed by Sri T.Vasudeva Rao, Junior Asst.(Retd), O/o Spl.Tahasildar, NSS, Collectorate, Eluru, West Godavari Dist - Forwarding of Counter Affidavit- Regarding.

Ref:-1) Govt. Memo No.60714/Vig.VII(2)/2002-7, dt.1-7-2008  
2) Draft counter received from GP for Rev(S), APAT, dt.4-7-2008.

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The attention of Government Pleader for Revenue(s), APAT is invited to the references cited. Six sets of fair counter affidavit on behalf of respondent in O.A.No.3776/2008 filed by

Sri T.Vasudeva Rao, Junior Asst.(Retd), O/o Spl.Tahasildar, NSS, Collectorate, Eluru, West Godavari Dist are furnished herewith for filing the same before Hon'ble Tribunal.

M.RAMAI AH  
DEPUTY SECRETARY TO

GOVERNMENT

To  
The Government Pleader for Revenue(Ser)  
APAT, Hyderabad. (w.e.)

//FORWARDED BY ORDER//

SECTION OFFICER

the representation of Sri T. Vasudeva Rao, Junior Assistant (retired) at page 209 c.f. wherein he has stated that he has filed O.A. before the APAT and the case was admitted and requested not to take any action in terms of Tribunal Act.

It is submitted that as he was convicted by the ACB court and since he retired from service, show cause notice has been issued calling for his explanation on the provisional decision of cut in pension and gratuity vide Memo.No.60741/Vig.VII(2)/2002-6, dt.19.6.2008. Whereas he has challenged the judgment in CC No.2/2004 of the Special Judge for ACB cases before the Tribunal. Counter affidavit was also filed on behalf of respondent and the case is pending before APAT for final disposal. But no interim directions or any directions were received from the Tribunal. Sri Vasudevarao has acknowledged the show cause notice. When no directions from APAT are issued there is no bar for taking further action on the provisional decision. Submitted for orders on the letter of Sri Vasudeva Rao.

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Public Services - Revenue Department - Sri T.Vasudeva Rao, Junior Asst.(Retd), O/o Spl.Tahasildar, NSS, Collectorate, Eluru, West Godavari Dist- Trapped on 12-1-2001 - Convicted by Prl.Spl.Judge for SPE & ACB Cases in C.C. No.2/2004 -Imposing of punishment of Orders - Issued.

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REVENUE(VIG.VII) DEPARTMENT

G.O.Ms.No.

Dated 13 -10-2008  
Read the following

- 1) DG, ACB Lr.No.300/RCO/EWG/2002,S13, dt.8-11-2002.
- 2) G.O.Rt.No.1881 Rev(Vig.IV) Department, dt.28-9-2003.
- 3) Judgment Special Judge for SPE & ACB cases, Vijayawada dated 18-3-2008 in CC No.2 of 2004
- 4) DG, ACB Lr.No. 300/RCO/EWG/2002,S13, dt.27-3-2008
- 5) Govt. Memo No.60741Vig.VII(2)/2002-6, dt.19-6-2008.
- 6) From Sri T. Vasudeva Rao, representation dt.23.8.2008

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Whereas, the Director General, Anti Corruption Bureau, Hyderabad in his letter 1<sup>st</sup> read above has informed that Sri T.Vasudeva Rao, while working as Junior Assistant, office of the Spl.Tahasildar, NSS, Collectorate, Eluru, West Godavari Dist was caught red handed on 27-9-2002 on the allegation of collecting illegal gratification for showing official favour. As a prima facie case has been established for initiation of disciplinary action, permission has been accorded to the Director General, A.C.B. for prosecution of Sri T. Vasudeva Rao, in a court of Law vide reference 2<sup>nd</sup> read above. The D.G.ACB has informed that he filed charge sheet before the Special Judge for SPE & ACB cases, Vijayawada in CC No.2/2004.

2. And whereas, the Principal Special Judge for Special Police Establishment & Anti Corruption Bureau cases, Vijayawada pronounced his judgment on 27.3.2008 in CC No.2 of 2004 informed that prosecution proved the guilt of the accused officer Sri T.Vasudeva Rao for the offences punishable under Section 13 (1) (d) read with Section 13 (2) of P.C.Act and holds that Sri T. Vasudeva Rao found guilty for the offence punishable under Section 13 (1)(d) read with Section 13 (2) of P.C.Act. In the meanwhile, the individual was permitted to retire from service on attaining the age of superannuation, pending disciplinary action.

3. And whereas, the Government, provisionally decided to take action in terms of rule 9 of AP Revised Pension Rules, 1980, i.e. for imposing the punishment of withholding of entire pension and gratuity in full, on Sri T.Vasudeva Rao, for the conduct which led to his conviction in CC No. 2/2004 dated 27-3-2008.

4. And whereas, a show cause notice has been issued on the provisional decision of the Government to Sri T.Vasudeva Rao, formerly Junior Assistant, now retired, to submit statement of defence on the provisional decision of the Government. Sri T. Vasudeva Rao has acknowledged the said memo. dt.23.8.2008, but not furnished statement of defence. Therefore, it has been construed that he has no explanation to offer and decided to confirm the provisional decision.

5. Now, therefore in exercise of the powers conferred under rule 9 of AP Revised Pension Rules, 1980 Government hereby order to withhold pension and gratuity in full permanently in respect of Sri T.Vasudeva Rao, the then Junior Assistant, O/o Spl.Tahsildar, NSS, Collectorate, Eluru, West Godavari Dist. now retired.

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6. The Special Chief Secretary & Chief Commissioner of Land Administration, Hyderabad/ Collector, West Godavari District shall take further action and furnish compliance report to the Government.

G.SUDHIR  
PRINCIPAL SECRETARY TO GOVERNMENT

To,

Sri T.Vasudeva Rao, Junior Assistant, O/o Spl.Tahasildar, NSS,  
Collectorate, Eluru, West Godavari Dist (now retired) **through**  
Dist. Collector, West Godavari Dist.

The Collector, West Godavari District.

The Special Chief Secretary & Chief Commissioner of Land Administration, Hyderabad.

Copy to

The Director General, Anti Corruption Bureau, Hyd.

//FORWARDED BY ORDER//

SECTION OFFICER

